

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 7833

Gabor BAJKO, *et al.*

Art Unit: 2617

Application No.: 10/759,453

Examiner: Charles Terrell Shedrick

Filed: January 20, 2004

For: SESSIONS IN A COMMUNICATION SYSTEM

Mail Stop RCE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO FINAL OFFICE ACTION MAILED MARCH 2, 2010

In response to the Final Office Action mailed March 2, 2010, please consider the above-identified application in view of the remarks as set forth below.

A listing of the claims is submitted beginning on page 2.

Remarks are submitted beginning on page 15.

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office on the date indicated below in accordance with 37 CFR 1.8(a)(1)(i)(C).

June 23, 2010

Date of Transmission

Signature



Maria Fambro

Typed or Printed Name of Person Signing Certificate

Amendments to the Claims:

This listing of claims replaces all prior listings of claims:

Listing of Claims:

1. (Currently Amended) A method comprising:
 - passing ~~[[a]]~~ an invite message from a first party to a second party in a communication system;
 - passing a response to the invite message from the second party to the first party, the response including at least one parameter in breach of a policy for a communication between the first party and the second party;
 - detecting in a network controller that the response includes the at least one parameter in breach of the policy ~~breaching the policy, the detected response configured as a provisional response acknowledgment in accordance with a session initiation protocol, the network controller comprising a call state control function; and~~
 - modifying, by the network controller, the at least one parameter to be consistent with the policy;
 - sending, by the network controller to the first party, an okay message comprising a session description protocol offer including the modified at least one parameter;
 - receiving a provisional response acknowledgement comprising a session description protocol answer including the modified at least one parameter, when the modified at least one parameter is accepted by the first party; and
 - receiving another invite message, when the modified at least one parameter is not accepted by the first party, wherein the another invite message includes at least one

parameter modified by the first party, wherein the network controller comprises a proxy call state control function.

2-4. (Canceled)

5. (Canceled)

6. (Canceled)

7. (Previously Presented) The method as claimed in claim 1, wherein the detecting comprises detecting that the response includes the at least one parameter comprising a parameter of a session description protocol.

8. (Previously Presented) The method as claimed in claim 1, wherein the sending comprises sending the response in accordance with a session initiation protocol.

9. (Currently Amended) An apparatus configured to provide at least the following:

operate in a communication system;

handle responses and requests between parties of communication sessions;

forward [[a]] an invite message from a first party to a second party, the invite message comprising an invitation for a session;

check whether a response to the invite message ~~from the second party to the first party~~ includes at least one parameter in breach of a policy for the communication between the first party and the second party ~~the parties, the response configured as a provisional response acknowledgment in accordance with a session initiation protocol, the apparatus comprising a call state control function; and~~

modify the at least one parameter to be consistent with the policy;

sending, by the apparatus to the first party, an okay message comprising the modified at least one parameter; and

receiving a provisional response acknowledgement comprising a session description protocol answer including the modified at least one parameter, when the modified at least one parameter is accepted by the first party, wherein the apparatus comprises a proxy call state control function.

10-17. (Cancelled)

18. (Currently Amended) A method comprising:

passing, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session;

receiving, by the network controller, a response to the message from the second party, the response including at least one parameter in breach of a policy for a communication between the first party and the second party;

passing, by the network controller, the response unmodified from the second party to the first party, ~~the response configured as a provisional response acknowledgment in accordance with a session initiation protocol;~~ and

determining in [[a]] the network controller that one or more of said at least one parameter breaches the policy, wherein the network controller ~~comprising~~ comprises a proxy call state control function.

19. (Previously Presented) The method according to claim 18, further comprising:

sending a further message from the first party to the network controller, said determining comprising detecting at least one parameter in breach of the policy in the further message.

20. (Previously Presented) The method according to claim 19, further comprising:

responsive to said detecting, sending to the first party by the network controller another message containing the policy allowed payload.

21. (Currently Amended) An apparatus configured to provide at least the following:

forward, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session;

pass, by the network controller, a response to the message unmodified from the second party to the first party, the response including at least one parameter in breach of a policy for a communication between the first party and the second party, ~~the response configured as a provisional response acknowledgment in accordance with a session initiation protocol~~; and

determine in [[a]] the network controller that one or more of said at least one parameter breaches the policy, wherein the network controller comprises ~~comprising~~ a proxy call state control function.

22. (Previously Presented) The apparatus according to claim 21, configured to detect at least one parameter in breach of the policy in a further message from the first party.

23. (Previously Presented) The apparatus according to claim 22, configured to send to the first party another message containing the policy allowed payload in response to detection of said at least one parameter in breach of the policy.

24. (Cancelled)

25. (Currently Amended) A method comprising:

passing, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session;

receiving, at the network controller, a response from the second party to the first party, the response including at least one parameter in breach of a policy for communication between the parties; ~~the received response configured as a provisional response acknowledgment in accordance with a session initiation protocol;~~

determining in ~~[[a]]~~ the network controller that one or more of said at least one parameter is in breach of the policy; ~~the network controller comprising a call state control function;~~ and

sending, by the network controller, a further message including a definition of the policy to the first party; and

receiving, at a network controller, a provisional response acknowledgment comprising a modification of the at least one parameter, the provisional response acknowledgment configured in accordance with a session initiation protocol, wherein the network controller comprises a proxy call state control function.

26. (Previously Presented) The method according to claim 25, wherein the sending of the further message comprises sending information of at least one parameter in consistency with the policy.

27. (Cancelled)

28. (Currently Amended) An apparatus configured to provide at least the following:

handle responses and requests between parties of communication sessions;

forward a message from a first party to a second party in the communication system, the message comprising a session initiation protocol invitation for a session;

receive a response from the second party to the first party, the response message including at least one parameter in breach of a policy for communication between the parties, ~~the received response configured as a provisional response acknowledgment in accordance with a session initiation protocol;~~

determine that one or more of said at least one parameter is in breach of the policy; and

send a further message including a definition of the policy to the first party; and

receive a provisional response acknowledgment comprising a modification of the at least one parameter, the provisional response acknowledgment configured in accordance with a session initiation protocol, wherein the apparatus comprises a controller comprising a proxy call state control function.

29. (Previously Presented) The apparatus according to claim 28, wherein the controller is configured to include in the further message information of at least one parameter in consistency with the policy.

30. (Currently Amended) A method, comprising:

passing, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session;

receiving, at the network controller, a response including at least one parameter in breach of a policy for a communication between the first party and the second party;

passing, by the network controller, the response unmodified from the second party to the first party;

receiving, at the network controller, from the first party a further message including one or more of the at least one parameter in breach of the policy; and

detecting, at the network controller, in a network controller that the further message includes the one or more of the at least one parameter breaching the policy, the further message configured as a provisional response acknowledgment in accordance with a session initiation protocol, wherein the network controller ~~comprising~~ comprises a proxy call state control function.

31. (Previously Presented) The method according to claim 30, further comprising sending a further response including a definition of the policy to the first party.

32. (Currently Amended) An apparatus configured to provide at least the following:

forward ~~[[a]]~~ an invite message from a first party to a second party in a communication system, the invite message comprising an invitation for a session;

forward a response including at least one parameter in breach of a policy for communication between the first party and the second party unmodified from the second party to the first party;

receive a further message from the first party including at least one parameter in breach of the policy, the further message configured as a provisional response acknowledgment in accordance with a session initiation protocol; [[and]]

detect that the further message includes at least one parameter in breach of the policy; ~~the apparatus comprising a call state control function;~~

modify the at least one parameter to be consistent with the policy;

send an okay message comprising a session description protocol offer including the modified at least one parameter;

receive a provisional response acknowledgement comprising a session description protocol answer including the modified at least one parameter, when the modified at least one parameter is accepted by the first party; and

receive another invite message, when the modified at least one parameter is not accepted by the first party, wherein the another invite message includes at least one parameter modified by the first party, wherein the apparatus comprises a proxy call state control function.

33. (Previously Presented) The apparatus according to claim 32, configured to send a further response including a definition of the policy to the first party.

34-35 (Cancelled)

36. (Currently Amended) An apparatus comprising:

a transmitter configured to send a message at a first party to a second party, the message comprising a session initiation protocol invitation for a session;

a receiver configured to receive at the first party from the second party a response to the message, the response including at least one parameter in breach of a policy; and

a processor configured to modify, at the first party, at least one parameter into consistency with the policy,

wherein the transmitter is further configured to send a further message to a network controller, the further message including the modified at least one parameter modification, the further message configured as a provisional response acknowledgment in accordance with a session initiation protocol, wherein the network controller ~~comprising~~ comprises a proxy call state control function.

37. (Previously Presented) The apparatus of claim 36, wherein the processor is further configured to further modify at least one parameter in response to a response to the further message.

38. (Previously Presented) The apparatus according to claim 36, wherein the user equipment is configured to modify the at least one parameter to be consistent with a local policy.

39. (Canceled)

40. (Currently Amended) A method comprising:

sending a message at a first user equipment to a second user equipment, the message comprising an invitation for a session;

receiving a response to the message at the first user equipment from the second user equipment, the response including at least one parameter in breach of a policy;

modifying, at the first user equipment, at least one parameter into consistency with the policy; and

sending a further message to a network controller, the further message including the modification, the further message configured as a provisional response acknowledgment in accordance with a session initiation protocol, wherein the network controller comprises ~~comprising~~ a proxy call state control function.

41. (Previously Presented) The method of claim 40, wherein the modifying is responsive to a response to the further message.

42. (Previously Presented) The method of claim 40, wherein the modifying comprises modifying the at least one parameter to be consistent with a local policy.

43. (Currently Amended) A method, comprising:

forwarding a session initiation protocol message from a first user equipment to a second user equipment, the session initiation protocol message comprising an invitation for a session;

forwarding a session initiation protocol response containing a session description protocol offer from a second party to a first party;

receiving a succeeding request and checking whether the succeeding request contains a session description protocol answer for the offer that breaches a local policy, the succeeding request configured as a provisional response acknowledgment in accordance with a session initiation protocol; and

if the session description protocol answer breaches the local policy, returning a response to a network controller that the answer is not acceptable, the response containing a local policy allowed session description protocol payload, wherein the network controller comprises a proxy call state control function.

44. (Previously Presented) The method of claim 43, wherein the first party is a user equipment and the session description protocol answer is reduced at the user equipment.

45. (Currently Amended) An apparatus configured to provide at least the following:

forward a session initiation protocol request from a first user equipment to a second user equipment, the session initiation protocol message comprising an invitation for a session;

forward a session initiation protocol response containing a session description protocol offer from said second party to said first party;

receive a succeeding request and checking whether the succeeding request contains a session description protocol answer for the offer that breaches a local policy, the succeeding request configured as a provisional response acknowledgment in accordance with a session initiation protocol; and

if the session description protocol answer breaches the local policy, return a response that the answer is not acceptable, the response containing a local policy allowed session description protocol payload, wherein the apparatus comprises a proxy call state control function.

46. (Canceled)

47. (Currently Amended) The apparatus ~~A network controller~~ according to claim 45, wherein apparatus further comprises ~~the network controller is~~ a serving call session control function.

REMARKS

At the outset, Applicants request an interview to advance prosecution.

The Examiner rejected claims 32, 33, and 39-47 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 7,509,425 to U.S. Patent No. 7,509,425 to Rosenberg; rejected claims 1, 3, 5-9, 25-26, 28-29, and 36-38 under 35 U.S.C. § 103(a) as unpatentable over WO 01/096145 A1 to Requena et al. (Requena) in view of RFC 3262, Reliability of provisional responses in the Session Initiation Protocol SIP (RFC 3262); rejected claims 18 and 21-23 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application Publication No. 2004/0095958 to Ejzak et al. (Ejzak) in view of RFC 3262; rejected claims 19-20 under 35 U.S.C. § 103(a) as unpatentable over Ejzak in view of RFC 3262 and Rosenberg; and rejected claims 30 and 31 under 35 U.S.C. § 103(a) as unpatentable over Ejzak in view of Rosenberg.

By this amendment, Applicants amend claims 1, 9, 18, 21, 25, 28, 30, 32, 36, 40, 43, 45, and 47 to more clearly define the features of those claims. Applicants cancel claims 3, 5, 6, 39, and 46 without disclaimer or prejudice.

Claims 1, 7-9, 18-23, 25, 26, 28-33, 36-38, 40-45, and 47 are currently pending.

Rejection of claims 32, 33, and 40-45, and 47 under 35 U.S.C. § 102(e)

The Examiner rejected claims 32, 33, and 40-47 under 35 U.S.C. § 102(e) as anticipated by Rosenberg.¹ Applicants respectfully traverse the rejection.

Applicants respectfully remind the Examiner that MPEP § 2131 states that a “claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros.*

¹ Only the currently pending claims are listed.

v. *Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)” (emphasis added). ‘The identical invention must be shown in **as complete detail** as is contained in the ... claim.’ *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)” (emphasis added). Moreover, “[e]very element of the claimed invention must be literally present, **arranged as in the claim.**” *Id.* (emphasis added).

Claim 32, as amended, recites an apparatus configured to provide at least the following:

- forward an invite message from a first party to a second party in a communication system, the invite message comprising an invitation for a session;
- forward a response including at least one parameter in breach of a policy for communication between the first party and the second party unmodified from the second party to the first party;
- receive a further message from the first party including at least one parameter in breach of the policy, the further message configured as a provisional response acknowledgment in accordance with a session initiation protocol;
- detect that the further message includes at least one parameter in breach of the policy;
- modify the at least one parameter to be consistent with the policy;
- send an okay message comprising a session description protocol offer including the modified at least one parameter;
- receive a provisional response acknowledgement comprising a session description protocol answer including the modified at least one parameter, when the modified at least one parameter is accepted by the first party; and
- receive another invite message, when the modified at least one parameter is not accepted by the first party, wherein the another invite message includes at least one parameter modified by the first party, wherein the apparatus comprises a proxy call state control function.

Rosenberg generally discloses a computer network for establishing a connection between the server and the client. Rosenberg’s client node sends a session-invitation message to a server node. Rosenberg’s session-invitation message establishes a channel between the client and the server. The server receives the session-invitation message,

sends a provisional response back to the client, and holds in abeyance a success or failure response to the session-invitation. But nowhere does Rosenberg disclose an apparatus comprising a proxy call state control function operative to provide the features noted above with respect to claim 32. Indeed, the Examiner committed a clear error and apparently ignored the “proxy call state control function” aspect of claim 32.²

In view of the foregoing, claim 32 and claim 33, at least by reason of its dependency, are allowable over Rosenberg, and the rejection under 35 U.S.C. § 102(e) of claims 32 and 33 should be withdrawn.

Independent claims 40, 43, and 45, although of different scope, include one or more features which are similar to those noted above with respect to claim 32. Therefore, claims 40, 43, and 45, as well as claims 41, 42, 44, and 47, at least by reason of their dependency, are allowable over Rosenberg, and rejection under 35 U.S.C. § 102(e) of those claims should be withdrawn.

Rejection of claims 1, 3, 7-9, 25-26, 28-29, and 36-38 under 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 3, 7-9, 25-26, 28-29, and 36-38 under 35 U.S.C. § 103(a) as unpatentable over Requena in view of RFC 3262. Applicants respectfully traverses this rejection.

Claim 1 recites a combination of features comprising:

passing an invite message from a first party to a second party in a communication system;

passing a response to the invite message from the second party to the first party, the response including at least one parameter in breach of a policy for a communication between the first party and the second party;

² If the Examiner did not ignore this aspect of claim 32, the Examiner has taken an unreasonable position as Rosenberg's proxy servers 1012 and 1014 are clearly not a proxy call state control function. See Office Action page 6. Indeed, one of ordinary skill in the art would not unreasonably construe a proxy call state control function as Rosenberg's proxy server. See http://en.wikipedia.org/wiki/IP_Multimedia_Subsystem. See also *In re Suitco Surface, Inc.* (Fed. Cir. 2010).

detecting in a network controller that the response includes the at least one parameter in breach of the policy;

modifying, by the network controller, the at least one parameter to be consistent with the policy;

sending, by the network controller to the first party, an okay message comprising a session description protocol offer including the modified at least one parameter;

receiving a provisional response acknowledgement comprising a session description protocol answer including the modified at least one parameter, when the modified at least one parameter is accepted by the first party; and

receiving another invite message, when the modified at least one parameter is not accepted by the first party, wherein the another invite message includes at least one parameter modified by the first party, wherein the network controller comprises a proxy call state control function.

Requena at page 18, lines 25-30 discloses user equipment 2 sending a session initiation protocol message to user equipment 1. If a situation in the network changes, a binary mask within the session initiation protocol message is modified by elements in the network. The binary mask represents the supported per bit rates for different modes of operation of a codec. However, nowhere does Requena disclose a network controller comprising a proxy call state control function configured to provide a protocol in accordance with the method recited above with respect to claim 1. Thus, Requena cannot possibly disclose or suggest the above noted features of claim 1. Although RFC 3262 describes the provisional response acknowledgement method, RFC 3262 fails to cure the noted deficiencies of Requena.

In view of the foregoing, claim 1 and claims 7 and 8, at least by reason of their dependency, are allowable over Requena and RFC 3262, whether taken individually or in combination, and the rejection under 35 U.S.C. § 103(a) of those claims should be withdrawn.

Independent claims 9, 25, 28, and 36, although of different scope, include one or more features similar to those noted above with respect to claim 1. For at least the

reasons given above with respect to claim 1, independent claims 9, 25, 28, and 36, as well as claims 26, 29, 37, and 38, at least by reason of their dependency, are allowable over Requena and RFC 3262, whether taken individually or in combination, and the rejection under 35 U.S.C. § 103(a) of those claims should be withdrawn.

Rejection of claims 18 and 21-23 under 35 U.S.C. §103(a)

The Examiner rejected claims 18 and 21-23 under 35 U.S.C. §103(a) as unpatentable over Ejzak in view of RFC 3262. Applicants respectfully traverse the rejection.

Claim 18, inter alia, recites the following feature: “passing, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session ... the network controller comprising a proxy call state control function.” The Examiner alleges that Ejzak discloses a proxy call state control function. Applicants disagree and submit that at best Ejzak discloses a gateway controller 114 and a network controller 102, without any mention of a proxy call state control function. Indeed, one of ordinary skill would recognize that the Ejzak’s gateway controller 114 and Ejzak’s network controller 102 do not constitute a proxy call state control function, as recited in claim 18.³ See also *In re Suitco Surface, Inc.* (Fed. Cir. 2010) (where Judge Rader stated that the “PTOs practice of giving a claim the broadest, reasonable construction does not give the PTO an unfettered license to interpret claims to embrace anything remotely related to the claimed

³ Indeed, although Applicants do not necessarily ascribe to the description provided by Wikipedia, Applicants submit that Wikipedia demonstrates the unreasonableness of the Examiner’s position with respect to asserting that the gateway controller 114 and the network controller 102 constitute a call state control function (CSCF) or a proxy call state control function. See http://en.wikipedia.org/wiki/IP_Multimedia_Subsystem.

invention. Rather, claims should always be read in light of the specification and teachings in the underlying patent”).

Although RFC 3262 describes the provisional response acknowledgement method, RFC 3262 fails to cure the above-noted deficiencies of Ejzak.

In view of the foregoing, claim 18 is allowable over Ejzak and RFC 3262, whether taken individually or in combination, and the rejection under 35 U.S.C. §103(a) of claim 18 should be withdrawn.

Independent claim 21, although of different scope, includes one or more features similar to those noted with respect to claim 18. Therefore, claim 21, as well as claims 22 and 23, at least by reason of their dependency, are allowable over Ejzak and RFC 3262, whether taken individually or in combination, and the rejection under 35 U.S.C. §103(a) of those claims should be withdrawn.

Rejection of claims 19-20 under 35 U.S.C. §103(a)

The Examiner rejected claims 19-20 under 35 U.S.C. §103(a) as unpatentable over Ejzak in view of RFC 3262 and Rosenberg. Applicants respectfully traverse the rejection.

Claim 19-20 depend from claim 18 and include all the features recited therein, including “passing, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session ” and “receiving by the network controller, a response modified by the first party in accordance with the policy and comprising a modification of the at least one parameter, the modified response configured as a provisional response acknowledgment in accordance with a session initiation protocol ... the network

controller comprising a proxy call state control function.” For at least the reasons noted above, neither Ejzak, RFC 3262 nor Rosenberg discloses these noted features. Therefore, claims 19 and 20 are allowable over Ejzak, RFC 3262, and Rosenberg, whether taken individually or in combination, and the rejection under 35 U.S.C. §103(a) of those claims should be withdrawn.

Rejection of claims 30 and 31 under 35 U.S.C. §103(a)

The Examiner rejected claims 30 and 31 under 35 U.S.C. §103(a) as unpatentable over Ejzak in view of Rosenberg. Applicants respectfully traverse the rejection.

Independent claim 30 recites a combination including includes features similar to those noted above with respect to claim 18, including “passing, by a network controller, a message from a first party to a second party in a communication system, the message comprising a session initiation protocol invitation for a session” and “receiving by the network controller, a response modified by the first party in accordance with the policy and comprising a modification of the at least one parameter, the modified response configured as a provisional response acknowledgment in accordance with a session initiation protocol ... the network controller comprising a proxy call state control function.” For at least the reasons noted above, neither Ejzak nor Rosenberg discloses this feature. Therefore, claim 30 is allowable over Ejzak and Rosenberg, whether taken individually or in combination, and the rejection under 35 U.S.C. §103(a) of claim 30 and claim 31, at least by reason of dependency, should be withdrawn.

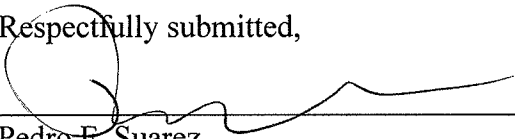
CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant is concurrently filing herewith a Petition for a one-month extension of time and Request for Continued Examination with the requisite fee, authorization for a credit card payment of the filing fee is submitted herewith. No additional fees are believed to be due, however the Commissioner is authorized to charge any additional fees or credit overpayments to Deposit Account No. 50-0311, reference No. 39700-797001US/NC40118US. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Date 22 June 2010

Respectfully submitted,


Pedro F. Suarez
Reg. No. 45,895

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130
Customer No. 64046
Tel.: (858) 314-1540 Fax: (858) 314-1501